

PUBLIC DEFENDER NEWS

CHIEF'S CORNER

Concerted efforts by OPD attorneys, staff and investigators have led to a number of noteworthy results for our clients. Most notably, Ron Piper and the team in Hamilton have successfully moved to suppress evidence in several felony cases. In these cases, law enforcement officers have conducted warrantless searches of vehicles after stopping the cars for relatively minor traffic infractions. The district courts have issued detailed decisions and concluded that the warrantless searches were unconstitutional.

Joan Burbridge in the Missoula office won acquittals for her client on charges of assault on a peace officer and misdemeanor assault. This was a significant victory. As Dave Stenerson noted, "Joan protected her client to the end with a great result." In the same office, Rob Henry successfully appealed a sentencing issue to the District Court, which held that the sentence imposed by the Municipal Court violated due process guarantees, and remanded the case for resentencing.

Lewistown staff attorney Adam Larsen, assisted by regional deputy Douglas Day, obtained a positive outcome in a jury trial in an involuntary commitment proceeding. A commitment on mental health grounds can have profound impact on our clients' rights, and the outcome in this case greatly benefitted our client.

Steven Scott of the Major Crimes Unit successfully moved to dismiss charges of possession of child pornography pending against his client in Cascade County.

Karolina Tierney in the Bozeman office recently won an acquittal in her first jury trial, on an assault charge. In Polson, Leta Womack won an acquittal on an aggravated assault charge by successfully presenting a self-defense theory. In Helena, Buddy Rutzke and Brent Flowers, who was trying his first Montana trial after moving from Hazard County, Kentucky, won an acquittal in a jury trial on a 3rd offense DUI charge. Nicole Klein, who recently joined the staff in Miles City, obtained a dismissal in a Youth Court case on a charge of obstructing a peace officer by truancy. In Billings, Eddie Werner and Abby Houle, assisted by Matt Claus, won an acquittal following a jury trial.

Jonathan Rapping, a former public defender and the founder of Gideon's Promise, offered



INSIDE THIS ISSUE

| | |
|--------------------------------|---|
| Legislative Update..... | 2 |
| Training News | 3 |
| New Online Claims System | 3 |
| Tips and Tricks | 4 |
| Mastering JustWare..... | 7 |

SPECIAL POINTS OF INTEREST

- Governor's Award for Excellence
- Deer v. Auto
- To Multitask . . . Or Not?

a definition of “good days” in the life of a public defender, in the June 2012 edition of *The Champion*:

Bad days will always exist. They are the ones when the defender becomes discouraged and decides to leave, or becomes complacent and begins to conform. Good days are those in which the defender can continue to raise the standard of representation, however incrementally, without losing sight of the representation clients deserve.

Here's wishing you all nothing but good days.

Bill

LEGISLATIVE UPDATE

Bill Hooks

The Task Force on State Public Defender Operations held its initial hearing in the Capitol on September 17. As stated in House Bill 627, the legislation passed by the legislature and signed by the Governor, the task force “shall study the operations of the office of state public defender and develop a long-term organizational plan for the next 6 to 10 years that will allow the office to provide effective assistance of counsel to those that qualify.” In the morning session, OPD senior managers provided summaries of OPD’s statutory obligations and answered questions. In the afternoon session, the Task Force heard from those who serve “in the trenches.” Appearing on behalf of OPD were Terry Jessee, a member of the Public Defender Commission and an LCPC who works in the Yellowstone County Detention Facility; Chris Abbott, a Region 4 staff attorney; and Eileen Larkin, a staff attorney with the Appellate Defender Office. Fred Snodgrass, a Billings attorney, shared his views as

an OPD contract attorney. The judicial branch was represented by Chief Justice Mike McGrath, Missoula County District Judge John Larson, and Blaine County Justice of the Peace Perry Miller. The Montana County Attorneys Association were represented by retired prosecutor Mark Murphy.

The Task Force adopted a work plan and set out tentative dates for future hearings during the next twelve months. Information regarding the Task Force and audio recordings of the hearings can be accessed on the Task Force [web page](#).

OPD is participating in other legislative committees that will study issues relating to the justice system and report to the 2017 legislature. Peter Ohman is a member of the Commission on Sentencing. The Commission, which held its first meeting on September 2, will undertake several tasks, including conducting “an empirical study of the impact of existing sentencing policies and practices on Montana’s criminal justice system,” and identifying opportunities to streamline and simplify the criminal code.

The Children, Families, Health, and Human Services Interim Committee is reviewing a number of issues relating to provision of mental health services and guardianship proceedings. Douglas Day, our Regional Deputy in Region 7, appeared as a panel member on guardianship issues during the Committee’s September 14 hearing.

An interim Judicial Redistricting Commission is studying whether judicial redistricting is necessary,

based on a number of factors which include weighted caseloads and the increase in the types and numbers of cases. The results of this study may also support a request by the judicial branch to increase the number of district judges in some districts.

We are pleased to participate in this valuable work that could impact OPD in the next session.



BOOT CAMP

Peter Ohman

In early August approximately 20 in-house and contract attorneys gathered at Lubrecht Forestry Center for OPD's 13th "Boot Camp" trial skills training.

We had many fine attendees and trainers at this session. Among them were Hank Branom with the Federal Defenders Office, Lisa Kauffman and Brian Smith from Missoula, and a number of experienced attorneys from within OPD. This year's conference focused more on active learning, with attorneys performing mock client interviews, cross examination and many other trial practices with their own cases. So far our new lawyers are 4 for 4 with three acquittals and one dismissal from the cases they worked on at Boot Camp – pretty impressive stats!



Lubrecht provided a beautiful setting for OPD's intensive training for new FTE and contract attorneys.

SEE YOU AT THE ANNUAL MEETING!

This year's annual attorney conference is coming up soon—October 14 and 15 at the Red Lion in Helena.

Among other speakers are Kevin McClain, investigator and trainer from Illinois; Tony Bornstein, Assistant Federal Defender from Oregon; Professor Gyda Swaney from U of M and many more. Hope to see you there!

CONTRACTOR CORNER

Online Claims Processing System Launched

Carleen Green

OPD is pleased to announce the implementation of its new online claims processing system! Contract attorneys in Regions 1 (Kalispell) and 3 (Great Falls) piloted the system and are doing really well with it. We would like to thank them for their willingness to try something new.



Using this web-based system, you'll be able to bill OPD for your services completely online – much faster than sending it through the mail. The system is very easy to use – all you need is your computer and a scanner. The cases you've been assigned will appear on a drop down menu so you'll just pick the case you worked on and enter the number of hours worked for that particular month. You will be able to enter your monthly stipend, travel and other expenses as well. The system even does the math for you! Once your claim is complete for the month, you scan and attach your invoices to the claim, click submit, and you will then be able to see how quickly your claim progresses through the payment process.

We are bringing up other regions a couple at a time, with the goal of having all contract attorneys using the new system within the next few months. Ultimately, we would like to expand online claims submission to include all OPD contractors. We trust that the new system will make the claims process more efficient and much easier for all, and we think you will be very pleased to see how user-friendly it is.

OPD appreciates all of the hard work our contractors do and we hope you find the new system to be beneficial!

TIPS AND TRICKS

Cathy Doyle

Here are some more highlights from the Entré Technology training at the last Support Staff Conference.

Quick Parts Rule!

Quick Parts in Word and Outlook can insert structures like headers, footers, and pull quotes or sidebars; document properties; and chunks of text.



Word has three categories of Quick Parts:

1. Building Blocks, items built into Word and ranging from very simple to complex. These include headers, footers and sidebars. You can use these from the Quick Parts button and the Building Blocks dialog. Several can also be inserted from their own buttons on the Insert tab.
2. Document Properties include author, title, tags, date created, keywords and more. You can edit some and the program manages others. Click the File tab and you will see the properties on the right.
3. Created Quick Parts, previously known as Auto Text. We're going to focus on these.

When you create your own Quick Part elements and store them in Word, they become part of your profile on that computer, not part of the document you're using when you create them. When you create a Quick Part in Word, that's the only program that will use it.

Once you save text as a Quick Part, you can insert it and then edit or format in any way you choose without changing the existing Quick Part. For instance, you can save an address as a Quick Part. Highlight the text, choose Quick Parts from the Insert tab, then Save Selection to the Quick Parts Gallery. If you want to name your quick parts in the order in which you're likely to use them, start with a number (e.g., 0 Address). When you are ready to use your new Quick Part, just choose it from the Quick Parts dropdown menu.

Outlook only uses the third type, Created Quick Parts. If you send the same or a similar email frequently, you can store the text as a Quick Part. Then, instead of finding your previous email and forwarding it, you just insert the Quick Part. As in

Word, you can edit the text without affecting the Quick Part.

Remember, Word and Outlook can't share Quick Parts. You have to create them separately for each program, but once they are set up they can improve both efficiency and accuracy.

BABY BLUE DEFENSE



Attorney Douglas Day of Lewistown shows off his baby blues

Looking sharp, Doug!

Courtesy Times-Clarion (Harlowton)

AND THE AWARD GOES TO . . .

Kyle Belcher, OPD's IT Supervisor, was one of 216 state employees to receive the Governor's Award for Excellence on September 14.

During his tenure with OPD, Kyle has demonstrated a high degree of professionalism and is a dedicated member of the OPD team. Currently he is leading a team that is designing a state of the art vendor payment system. This system will allow vendors to submit their claims via a web portal. Once operational, the system will save labor costs, increase the accuracy of vendor payments, allow vendors to see where their payment is at any point in the process and allow claims to be processed faster.

In presenting the awards, Governor Bullock said, ". . . state employees provide important services in every corner of Montana. I'm honored to work with these men and women that we're recognizing today; folks who went above and beyond to provide quality service to the people of Montana."

Congratulations, Kyle!



'TIS THE SEASON: DEER V. AUTO

The days are getting shorter, and that means more accidents involving wildlife, especially at dusk and dawn, when wildlife are most active and human eyes are most compromised. Most of us can't simply avoid driving at those times, but there are ways to minimize the damage in deer v. car encounters.

According to Lisa Outka-Perkins, project leader at the U.S. Forest Service's Missoula Technology and Development Center, good situational awareness is the key. Deterrents such as deer whistles and reflectors have been shown to be ineffective. Situational awareness helps you to look where you are supposed to look and anticipate where you might encounter wildlife.

The most common site for wildlife collisions is a two-lane road with a speed limit of 55 mph or more. Deer tend to cross at specific places (such as small bridges) because they're moving along favorite routes with good cover like stream beds, and have to cross the road where they can't get through a small culvert or low bridge. Be extra vigilant when passing those places.

No matter how attentive you are, you may still have an unwelcome encounter. Remember that hitting a deer is better than a high-speed evasive maneuver gone wrong, both for you and for your vehicle. You will likely survive the impact of a deer, but the chances of walking away from a rollover or head-on with oncoming traffic are much worse.

Hitting an elk or a moose is another matter. When a car hits a moose, it knocks the legs out and the moose can come through the passenger cabin. To improve your chances in a collision with a large animal, apply the brakes right up to the point of impact, then let go. Braking pushes the front of the car down, turning your hood into a ramp leading straight to your windshield. Letting off the brakes at the last second raises the grill.

For more information on anticipating risks and minimizing damage to wildlife and people, check out the Forest Service video, "[Avoiding Wildlife-Vehicle Collisions](#)."

Adapted from [The Montana Standard](#), July 18, 2015.

MULTITASKING IS EVIL!

Think you're an awesome multitasker? Guess what?? You're fooling yourself. Multitasking is actually your enemy. Although we think we're getting a lot done, multitasking makes us less efficient because of the way our brains work. We think we're keeping a lot of balls in the air like an expert juggler, but we're more like a bad amateur plate spinner, frantically switching from one task to another, waiting for it all to come crashing down.

Our brains evolved to focus on one thing at a time, not several things at once. We're actually rapidly switching attention from one thing to another when we think we are focusing on multiple things simultaneously. All that flitting about comes with a neurobiological switching cost. The rapid, continual shifting literally causes the brain to burn through fuel so fast that we feel exhausted and disoriented after just a short time.

Even worse, a lot of multitasking requires decision-making, and little decisions take as much energy as big ones. After making lots of insignificant decisions (What do I do with this email? Should I respond to this text message?), we can end up making bad decisions about something important because we are in a depleted state.

Multitasking increases the stress hormone cortisol as well as adrenaline, which can overstimulate the brain and cause mental fog or scrambled thinking (high cortisol levels can also lead to weight gain!). It also creates a dopamine-addiction feedback loop, constantly searching for external stimulation. The brain's novelty bias means that we are easily distracted by shiny objects, so that external stimulation is easy to come by. We reap empty rewards from completing a thousand little tasks instead of the big rewards that come from focused effort.

Multitaskers think they are doing great, but they are terrible at ignoring irrelevant information, terrible at keeping information in their head neatly organized, and terrible at switching from one task to another. Multitasking results in less work done, not more; not better work but sloppier work.

People who are able to organize their time in a way that allows them to focus not only get more done, but are less tired and neurochemically depleted after doing it. Even knowing that you have an unread email can reduce your effective IQ by 10 points. So try setting aside a couple of times a day to return messages. Then close your email program, send calls to voicemail and focus on the task at hand.

Adapted from The Organized Mind: Thinking Straight in the Age of Information Overload by Daniel J. Levitin

... OR IS IT?

Multitasking is a topic that often brings on a heated debate. Is it a positive attribute to boast about on resumes, or is it a risky habit that is harmful to those with attention issues? Are there areas in life—at home, in the office, in the classroom—where multitasking is OK, and others areas where it is not? Sure, multitasking can help us accomplish multiple items on a to-do list, but does doing multiple things at the same time affect our ability to do those tasks well?

And what about where students are concerned? Doing multiple tasks at a time must influence how they learn and the information that they retain...or does it?



- It's easy to switch mental focus when doing simple tasks, allowing people to do multiple things at once, e.g. at home, talking on the phone while making breakfast and mopping the floor; at work, listening to radio, responding to an email, texting on your phone.
- It can help you learn how to deal with distractions and interruptions—because life doesn't stop happening just because you are busy.
- It allows progress on multiple tasks, even if the progress is minimal. It helps move several projects/chores/assignments toward a single deadline.
- It helps you develop the ability to cope when there is lots of chaos happening around you.
- Society is continually more technologically wired. The ability to use multiple technologies simultaneously will keep people of all ages adaptable, relevant, and employable.
- When deadlines loom at the office and in the classroom, multitasking allows you to complete pieces of all tasks, rather than only completing one.

Excerpted from <http://gradelearning.com/blog/pros-and-cons-of-multitasking>.

MASTERING JUSTWARE: THE JW CHECK-IN SYSTEM

Marsha Parr

JustWare is an ever growing and changing entity. As always, we hope that the changes help the attorneys and staff alike. With the Check-In System we believe we've hit a homerun!



The Check-in System was designed in three parts:

1. A quick and efficient way for staff to record information regarding clients when they call or come into the office.
2. An even quicker way to relay that information to ALL attorneys that have open cases with that client.
3. A resource for attorneys to quickly see maintained contact with the office by their client.

STAFF

Those of you who are our frontline people know how overwhelming handling walk-ins and answering phones are on a daily basis. The Check-In System is designed specifically to help process information more quickly.

The first thing you need from the client is their name so you can look up their NAME record in JustWare. There are a few common questions/issues when a client calls, all of which can be handled through the NAME record:

1. Who is my attorney? (Involved Names on Events in calendar)
2. When is my court date? (Name record shows ALL court dates calendar on *any* of their open cases)
3. My address has changed. (Right where you need to be to update Contact Information)
4. I need to get a message to my attorney. (Check-In Event and put message in Notes section; email sent to the attorney automatically)
5. I'm checking in. (Check-In Event with no note)

| Event Type* | Involved Name(s) | Location | Start* | Duration |
|-------------|-----------------------------|--------------------|-------------------|----------|
| Checked In | Marsha Parr | Phone | 9/9/2015 9:19 AM | 1 min |
| Travel | Marsha Parr, Roger Renville | Out of Office | 9/9/2015 8:00 AM | 2 days |
| Omnibus | Marsha Parr, Marsha Parr, | Forsyth City Court | 10/1/2015 9:15 AM | 1 min |
| Hearing | Kyle Belcher, Marsha Parr, | Forsyth City Court | 11/2/2015 9:18 AM | 1 min |

When a client contacts the office, staff will enter an event on the NAME record as a Check-In. If there is a message that needs to be relayed to an attorney, put that in the Notes section of that event. Once saved, JW will send an email to all attorneys who currently have an OPEN case with that client.

NOTE:

1. If a client only needs to talk to their misdemeanor attorney but not their DN attorney, make sure you reference: Mary please contact client. That way everyone has the information that the client has maintained contact with the office as required, but not all attorneys are scrambling to call the client.

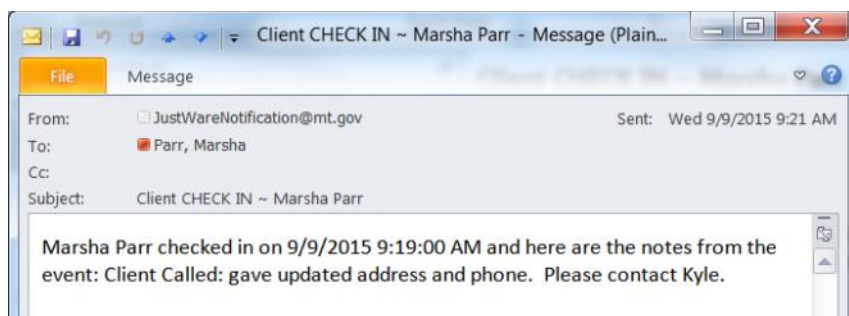
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MASTERING JUSTWARE CONTINUED FROM PAGE 7

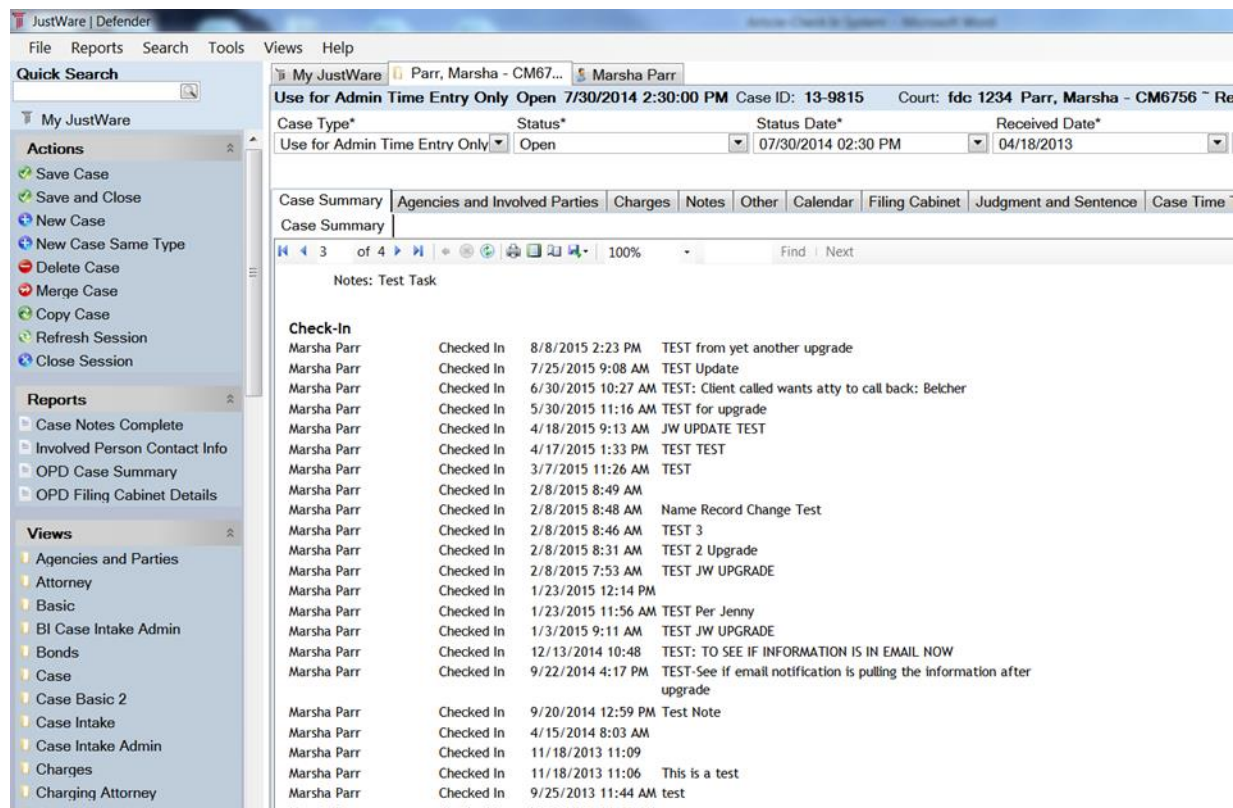
2. And since you are right there, verifying the client's contact information each time saves immeasurable amounts of time in the future with returned mailings or futile attempted phone calls to outdated information. Verify, verify, verify!

ATTORNEY

Once your staff has entered the Check-In information into JW, you will get an email notification showing your client's Check-In and any message needed relayed from your client.



For future use in tracking your client's maintained contact with the office, the Check-In events are listed on the Case Summary Sheet in the client's CASE record. Not only will it show you the Check-In dates and frequency, but also any coordinating messages as well. This goes a long way with staving off a bench warrant for the absent client when you are able to show consistent contact from your client.



As our agency grows, JustWare needs to evolve as well. We're always open to hearing your suggestions on how to make JW work better for you!